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SUBJECT: NIGERIA'S PRIVATIZATION PROGRAM: STATUS  
REPORT

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Introduction and Overview  
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1. (U) Nigeria's National Privatization Program is being carried out by the National Council for Privatization (NCP), and is implementing arm, the Bureau of Public Enterprise (BPE). In phase one of the program, which ended in 2001, the BPE offered its own shares to the public in three banks, two cement, and five petroleum marketing enterprises

12. (U) Phase two started later in 2001 with the preparation of several major enterprises for sale. The controlling interest in Nigerdock, Nigeria's premier shipbuilding and offshore construction yard, was auctioned in November 2001. However, the winning bidders were unable to sustain their partnership agreement, and one of the buyers, an U.S. company, has withdrawn. NITEL, the state-owned telephone and telecommunications monopoly, was awarded to the highest qualified bidder in September 2001, but the winning core investors were unable to raise the necessary capital to honor their commitment to purchase 5.1% of NITEL. Details on the NITEL and Nigerdock transactions will follow. However, Festac 77, a large hotel in Lagos, was successfully privatized.

13. (SBU) Currently, there are over 60 public enterprises designated for privatization, including flagship state-owned monopolies such as telecommunication (NITEL), electricity (NEPA), post, port services, railways, the petroleum refineries, and the Nigerian National Petroleum Corporation (NNPC) subsidiaries. The workload of this latter series of transactions is enormous in terms of preparation, professional expertise, preparation of the companies, the due diligence process, the review and analysis of submitted bids, and the negotiation and closing of transactions. Progress made with the many enterprises awaiting privatization demonstrates the Executive branch's political will to advance privatization and the improved technical expertise of the BPE professional staff in shepherding complex privatization exercises.

14. (SBU) Nonetheless, privatization remains a controversial move in Nigeria. Among the general public and even within government, particularly the National Assembly, support is neither particularly wide nor deep. Some fear privatization is a ruse whereby cronies of the Administration are allowed to purchase government assets at discount rates. Others are apprehensive privatization will result in the loss of significant portions of the Nigerian patrimony to greedy foreigners. Still others question whether privatization will bring significant benefit given other growth-adverse dysfunctions in the economy that privatization cannot address.

15. (SBU) Privatization is viewed cautiously by senior government officials jealous of their control over parastatals and by employees who think privatization as synonymous with workforce reduction. Labor unions, especially, are opposed to privatization in almost every sector. Because of this lack of consensus, each sale faces strong opposition. Every successful sale will generate additional support and reduce the decibels of privatization's critics. However, when sales fall through, even due to circumstances beyond

the control of BPE, as with the NITEL and Nigerdock bids, the proficiency of BPE and utility of privatization will be attacked. In short, despite the BPE's improved capacity and ambitious schedule, Nigerians will remain divided over privatization until they see some material benefit. End Introduction and Overview.

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BPE and USAID  
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16. (U) USAID has provided assistance to the BPE since May 2000, and the Mission expects to continue its support until November 2002. The primary objective of the USAID-funded project is to provide technical assistance and training to the BPE. USAID's assistance has greatly strengthened BPE's institutional and professional capabilities and has enabled the Director-General to transform BPE into an institution that can carry out transactions in a professional, transparent manner.

17. (U) USAID-funded assistance has been instrumental in moving the privatization process forward. BPE has made progress in public offers and core investor sales, as well as in due diligence work in the form of "diagnostic reviews". The importance and early progress in privatization made by BPE and the transparency of its procedures led to a \$114 million low interest loan from the World Bank to support Nigeria's privatization effort.

18. (U) In addition to privatization transactions, the BPE is helping to develop the legal and institutional infrastructure needed to insure that newly privatized firms will operate under more competitive market structures. BPE is also working on other appropriate institutional arrangements that will improve the efficiency of resource use and aid in Nigeria's economic growth. For example, USAID-funded expatriate advisors and the core team are working in such areas as privatization procedures and methods, domestic and international procurement processes, public awareness, labor policies, environmental issues, anti-trust legislation and regulation, pension reform, and legal and policy reform leading to the eventual establishment of regulators for electricity, telecommunications, and transport (Air, Rail and Ports).

19. (U) Notwithstanding the progress made, the Director General of BPE recently decided accelerating the pace of privatization, required steps to increase the level of accountability within the organization. On July 1, he re-organized the Bureau into six Departments, each responsible for the privatization of enterprises in a given sector of the economy. It is expected that the result will be a fairly marked increase in the number of public enterprises privatized.

10. (U) The latest internal plans for BPE call for over 20 enterprises to be privatized by the end of 2002; it is anticipated that more than 30 will be privatized in 2003. Following is a synopsis and evaluation of the major privatizations carried out by the BPE so far, and the conclusions we have drawn from their performance.

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Telecommunications (NITEL)  
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11. (U) The privatization of NITEL is widely viewed as unsuccessful because the sale was not consummated. However, the technical privatization was professionally managed. The failure was mostly due to three factors: the financial downturn in the world telecommunications industry, which prevented major international bidders from participating;; the lack of new regulatory legislation for the telecommunications sector, which has been under review in the National Assembly for a year; and the inability of the winning bidder to secure from financial markets the \$1.38 billion purchase price their group had committed for 51 percent of NITEL. The Chief of Party of the USAID

project providing technical support to BPE concluded that with respect to transparency and efficiency of the privatization process, the privatization of NITEL was a major success. The procedures followed the criteria used for selection were publicly advertised domestically and internationally and were well understood by all participants. Documentation requirements were set forth clearly, establishing a technical threshold that prospective bidders had to satisfy in order to be pre-qualified to bid. The pre-qualified investors submitted technical and financial proposals for review pursuant to selection criteria which were established and made known well in advance, so that no accusations of favoritism or corruption could be leveled at the BPE. Review of the technical proposals adhered to the highest standards acceptable in the investment banking profession. The legal and procedural requirements for bidding were very clearly and publicly stated and the bid opening was accessible to the public.

12. (U) It is not unusual for privatization transactions to fail to close, often due to the inability of a winning bidder to raise sufficient capital to close the deal. Despite the setback, BPE has not surrendered on privatizing NITEL. Next steps in the NITEL privatization process will be to offer about 15 percent of the shares to the public in an Initial Public Offering (IPO) before the end of 2002. A professional management contractor is being recruited to run NITEL on an interim basis until the global telecom market returns to financial health, at which time a core investor will again be sought.

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NIGERDOCK  
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13. (U) The core investor sale of Nigerdock was successfully concluded with the execution of a Share Sale/Purchase Agreement concluded December 20, 2001 with Global Energy Company (GEC), the successful core investor. As part of the terms of the Agreement, a minimum of 25% of the core investor shares was to have been sold to Houston-based J. Ray McDermott Inc. (JRM), a U.S. firm and the foreign technical partner to GEC.

14. (U) A separate Memorandum of Understanding (MOU) was executed by GEC and JRM and a transitional period of six months commenced in January 2002. Recently, however, J. Ray McDermott withdrew from Nigerdock claiming that Global Energy did not abide by the Agreement between them. GEC has taken the case to court and is currently seeking a new technical partner to replace JRM. The BPE intends to sell 29% of its remaining 49% in Nigerdock in an Initial Public Offering (IPO). It is planned that the issue will close by the end of 2002 with shares being distributed early in 2003.

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Electricity (NEPA)  
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15. (U) The reform program for the power sector comprises preparation and adoption of a new electricity law; creation of a power sector regulatory agency; creation and operation of a new Electricity Supply Industry including the unbundling of the state-owned national electric supply utility, NEPA, into separate generation, transmission and distribution entities; privatization of multiple generation and distribution units as separate limited liability companies; and, finally, creation of a fund and an agency to focus on rural energy and assistance to consumers.

16. (U) Currently, the BPE is at the closing stages of hiring consultants to undertake these tasks. The preferred consultants include Credit Suisse First Boston and the Spanish/Latin American firm, Mereados Energeticos. At this point, the corporate restructuring blueprint has been prepared and preparations for implementation are being made. Also, the lobbying of the National Assembly to pass the Electric Power Sector Reform Bill has been intensified. This is being done along with an enhanced public communications campaign that includes the use

of various media to win the support of the Nigerian public and road shows to report on reform efforts and secure the long-term interest of foreign investors and operators.

17. (U) By the end of 2002, it is expected that the following would have been completed with respect to NEPA: the establishment of 18 new legal/physical business units and a special purpose entity (to take over and pay off NEPA's stranded liabilities); drafting of market rules for the transition stage; a comprehensive due diligence audit of NEPA; substantial completion of the physical establishment of the regulatory agency and the hiring of executive and senior staff, and a Draft Rural Energy Policy and the setting up of the Rural Energy and Consumer Assistance Funds.

18. (U) Although challenging, it is anticipated that BPE will be able to achieve these objectives and will then be in a position to complete the restructuring process and commence the privatization of the resulting distribution and generation enterprises, most of which may well be completed by the end of 2003.

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Hotels  
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19. (U) The Nicon Hilton (NIRMSCO) and the Sheraton (Capital Hotels Plc) Hotels are in the very final stages of privatization with respect to the controlling interest. For offer is 51% of each, with the balance to be sold to the public through IPO's. Potential investors have applied, been short-listed, performed due diligence, submitted technical proposals and financial bids and have had their technical proposals assessed.

20. (U) The next step, the public opening of the bids, was completed on August 14, and African Properties Nigeria, Ltd.'s (led by Co-investor Southern Sun Hotels of South Africa) bid of \$ 62 million for the Nicon Hilton and Hans Gremlin Nigeria, Ltd.'s bid of \$ 32 million for the Sheraton were declared the winners. Therefore, both privatizations are at the final stage, awaiting closing of the sale. One lingering problem with the Hilton has been the union's insistence that a new collective agreement should be negotiated prior to the sale. This is opposed by the BPE which insisted from the beginning that a new agreement must be signed with the new owner.

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Conclusion  
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21. (U) Amid the up-and-downs of the first two years of Nigeria's privatization program, the emergence of BPE as an effective privatization organization is significant. Any privatization program needs to have a strong and credible system put into place in order to be effective. The prospective investors, particularly international investors, require such procedures in order to review any potential purchases, or to even start the expensive and time-consuming due diligence process. In a country where corruption is common, Nigeria's privatization program needed this kind of operational and procedural credibility to demonstrate its commitment to privatization, and to attract prospective investors.

20. (U) The BPE appears committed to ensuring transparency and is following recently established procurement and privatization procedures that meet world standards. These procedures govern the selection of advisors, potential investors and winning bidders. The transaction process itself is clearly laid out in writing, with criteria available to the public, as well as to prospective advisers and investors. BPE has cause to assert that it runs a privatization program that can withstand the scrutiny of any investor or arbiter of standards, procedures, and effectiveness.

121. (SBU) Still, while privatization is one of President Obasanjo's top economic reform priorities and BPE has actively pursued it, there is significant political opposition. Privatization is not viewed as an unalloyed benefit by many Nigerians, even within government. After years of military rule, many people have statist mindsets and look warily at private sector control over key industries and utilities. Even among those favoring privatization, the GON program has its critics. Some complain the program is moving too fast, selling the wrong companies at the wrong time, such as with NITEL when the sale took place after world telecom prices had plummeted. These critics say that lauding the technical correctness of a sale offers little comfort when the sale comes at a bad time economically.

122. (SBU) While the honesty of the actual bid process may not be hotly disputed, some observers challenge the selection of enterprises that are being privatized. BPE has been accused of rushing the sale of the National Mint because a close relative of President Obasanjo, in concert with relatives of Kenyan President Moi, may be interested in the purchase. Some people also fear that privatization of the larger parastatals is being rushed in order to maximize revenues while it would have been more prudent to follow a more deliberate sequencing that moved from smaller to large firms, and an even more measured approach to "national interest" companies such as NITEL and NEPA. Another profound question is whether privatization is outpacing other reform efforts. Without sufficient reform in other areas, the enabling environment may be insufficient. It is feared that all privatization may accomplish is to turn a moribund state company into an equally inefficient private concern.

123. (U) In the end, Nigerians will judge the utility of privatization by whether the exercise results in better performance and a more vibrant economy. As much as possible, we need to continue working with the BPE to further enhance its work and to help Nigeria see that privatization is not just an abstraction, nor a ploy for foreign control of the economy, but that it provides real economic benefit, to the Nigerian people.  
JETER